REMARKS

Claim Status

Claims 1-9 and 11-15 are pending in the present application. No additional claims fee is believed to be due.

Claim 10 is canceled without prejudice.

Applicants would like to thank the Examiner for the withdrawal of the rejection under 35 U.S.C. §102(b) over Hall (US 5,804,546) of claims 1-2, 6 and 8; the withdrawal of the rejection under 35 U.S.C. § 103(a) over Fowler et al. (US 5,635,469) of claims 1-4 and 6-10; the withdrawal under 35 U.S.C. §103(a) over Fowler et al. in view of Boehm et al. (US 3,422,993) of claim 9; and the withdrawal of the rejection under 35 U.S.C. § 103(a) over Fowler et al in view of Baeck et al. (US 5,679,630) of claim 5.

Nonstatutory Obviousness-type Double Patenting

Claims 1-9 and 11-15 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5 and 11 of copending Application No. 10/787,342.

Applicants have submitted a terminal disclaimer for the present application over copending Application No. 10/787,342, which is also assigned to The Procter & Gamble Company.

Rejection Under 35 USC §103(a) Over US 5,635,469 (Fowler et al.) in view of US 5,858,954 (Balzer)

Claims 1-4, 6-9, 11 and 13-15 have been rejected under 35 USC §103(a) as being unpatentable over Fowler et al. in view of Balzer. This rejection is traversed for two reasons. First, Fowler et al. does not establish a *prima facie* case of obviousness because it does not teach or suggest all of the claim limitations of Claims 1-9 and 11-15. Second, Fowler et al. in view of Balzer does not establish a *prima facie* case of obviousness because it does not teach or suggest all of the claim limitations of Claims 1-9 and 11-15.

Specifically, Applicants would like to draw attention to the statement in the Office Action dated December 8, 2006, discussing Fowler et al. in view of Balzer (Fowler et al.

being characterized in the Office Action as failing to teach a microemulsion and the foam to weight ratio of the composition):

> "* * * it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect one form of the composition of Fowler (US 5,635,469) to be in microemulsion form because in col. 13, lines 16-21, Fowler teaches that the composition will preferably being the form of a stable single phase, most preferable a true solution, however, the composition can also be in the form of stable emulsion, and considering the composition of Folwer which comprises hydrocarbon, water and surfactant, the form of the compositions would vary from true solutions to emulsions, and therefore would have also encompassed microemulsions in view of the teachings of Balzer (US 5,858,954) that microemulsions often give the impression of being true solutions."

As discussed in the March 29, 2006, Howard D. Hutton, III Declaration, discussion how one of skill in the art would not equate a true solution or emulsion with a microemulsion or protomicroemulsion. Namely that microemulsions and protomicroemulsions, unlike true solutions, have distinct domains of oil dispersed throughout the solution - they are not a single phase. While the oil domains in microemulsions are small enough to be perceived as being clear in appearance, the oil domains are present, significantly affect how much oil can be incorporated into the solution, and significantly affect the physical parameters of the solution (interfacial tension, viscosity, etc.). Emulsions, on the other hand, have oil domains like a microemulsion, but are much larger (greater than 10x larger) resulting in visible appearance of the oil phase in the emulsion.

As such the logic presented in the December 9, 2006, would not hold true in the opinion of Dr. Hutton, one skilled in the art, as stated in his declaration.

Fowler et al. and Fowler et al. in view of Balzer does not teach or suggest all of the claim limitations of Claims 1-4, 6-9, 11 and 13-15 and, therefore, does not establish a *prima facie* case of obviousness (see MPEP 2143.03). Applicants respectfully request that the rejection of Claims 1-4, 6-9, 11 and 13-15 under 35 U.S.C. § 103(a) over Fowler et al. in view of Balzer be withdrawn.

Rejection Under 35 USC §103(a) Over US 5,635,469 (Fowler et al.) in view of US 5,858,954 (Balzer) in further view of US 3,422,993 (Boehm et al.)

Claim 9 is rejected under 35 U.S.C. § 103(a) over Fowler et al. in view of Balzer and Boehm et al.

Applicants submit and discuss above that Fowler et al. in view of Balzer and further in view of Boehm et al. does not establish a *prima facie* case of obviousness because it does not teach or suggest all of the claim limitations of Claim 9. The Office Action does not cite Boehm et al. with respect to microemulsion or protomicroemulsion, rather it is cited as teaching a dispensing device and package for common household products for cleaning as well as personal products wherein the dispenser is provided with a porous material. As such, Applicants submit that a *prima facie* case with respect to all of the claim limitations of Claims 1-9 and 11-15 has not been established by Fowler et al. in view of Balzer and further submit that Fowler et al. in view of Balzer and further in view of Boehm et al. likewise does not present a prima facie case with respect to all of the claim limitations of Claim 9.

Rejection Under 35 USC §103(a) Over US 5,635,469 (Fowler et al.) in view of US 5,858,954 (Balzer) in further view of US 5,679,630 (Baeck et al.)

Claim 5 is rejected under 35 U.S.C. §103(a) over Fowler et al. in view of Balzer and Baeck et al.

Applicants submit and discuss above that Fowler et al. in view of Balzer and further in view of Baeck et al. does not establish a *prima facie* case of obviousness because it does not teach or suggest all of the claim limitations of Claim 5. The Office Action does not cite Baeck et al. with respect to microemulsion or protomicroemulsion, rather it is cited as teaching protease enzymes having improved proteolytic activity which can be used in any detergent composition or concentrated detergent compositions where high sudsing and/or good insoluble substrate removal are desired.. As such, Applicants submit that a *prima facie* case with respect to all of the claim limitations of Claims 1-9 and 11-15 has not been established by Fowler et al. in view of Balzer and further submit that Fowler et al. in view of Balzer and further in view of Baeck et al. likewise does not present a prima facie case with respect to all of the claim limitations of Claim 5.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 103(a). Early and favorable action in the case is respectfully requested. Applicants' attorney invites the Examiner to contact her with any questions the Examiner may have regarding this application.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-9 and 11-15 is respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

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